

**Notice of Allowability**

Application No.

10/755,018

Applicant(s)

THOMAE ET AL.

Examiner

Kagnew H. Gebreyesus

Art Unit

1656

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/14/07.
2. ☒ The allowed claim(s) is/are 1, 7-12, and 38-41.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |  |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>6/7/07</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                  |
|  | 9. <input type="checkbox"/> Other _____  |

## **DETAILED ACTION**

Applicant's response on May 14, 2007 to the Office Action dated March 12, 2007 is acknowledged. Applicants have cancelled claims 2-6, 13-37 without prejudice. Claims 7, 9 and 10 have been withdrawn as being part of non-elected claims. Claim 1 has been amended. Claims 1, 8, 11, 12, 38-41 are present for examination.

### ***Withdrawn - Claim Objections***

Claims 1, 8, 38-41 were objected to for containing non-elected subject matter. Appropriate correction is required. The objection is withdrawn following the amendment to claim 1.

### ***Withdrawn - Claim Rejections - 35 USC § 102***

Claims 1, 38-41 were rejected under 35 U.S.C. 102(e) as being anticipated by Comings et al (US 6,660,476 B2). This rejection is withdrawn following Applicants amendment to claim 1.

## **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

KG  
6/11/07  
Authorization for this examiner's amendment was given in a telephone interview with June <sup>11</sup>~~X~~, 2007.

In claim 1 replace:

"...includes nucleotide 32, 159, 298, 340, or 462 of SEQ ID NO: 6..." **with** "...includes at least one nucleotide selected from positions 32, 159, 298, 340 and 462 of SEQ ID NO 6..."

Replace claim 11 with:

An isolated nucleic acid encoding a PNMT polypeptide, wherein said polypeptide is a variant relative to the amino acid sequence of SEQ ID NO: 8, and wherein said amino acid sequence variation is at a residue selected from the group consisting of 9, 98, and 112.

In claim 12 replace: "variant" **with** "variation"

Furthermore withdrawn claims 7-10 are rejoined because these positions are species of the genus of variants claimed in claim 1.

The closest prior art to the invention in the instant application is the disclosure of Coming et al. However the single nucleotide variations claimed in the instant invention are not disclosed in the prior art.

**Conclusion:** Claims 1, 7-12 and 38-41 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kagnaw H. Gebreyesus whose telephone number is 571-272-2937. The examiner can normally be reached on 8:30am-5: 30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner: Kagnev Gebreyesus PhD.

June 8, 2007

KHG

  
KATHLEEN KERR BRAGDON, PH.D.  
SUPERVISORY PATENT EXAMINER